

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. C.M. GARG, JUDICIAL MEMBER
AND
SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.2863/Del/2016
Assessment Year: 2006-07

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| ITO Ward- 9 (1) New Delhi | Vs | M/s. Fashion Co-ordinators Private Limited, B-113, Okhla Industrial Area, Phase-I, New Delhi-1100020 PAN No.AAACS2016Q |
| (APPELLANT) | | (RESPONDENT) |

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| Appellant by | Sh. Jogesh Nayyar, Sr. DR |
| Respondent by | None |

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| Date of hearing: | 20/04/2022 |
| Date of Pronouncement: | 20/04/2022 |

ORDER

PER PRADIP KUMAR KEDIA AM :

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-3, Delhi ('CIT(A)' in short), dated 08.03.2016 concerning AY 2006-07.

2. The grounds of appeal raised by the revenue reads as under :-

1. *The CIT(A) erred in law and on facts of the case in deleting the addition of Rs.1,70,00,000/- made by the AO on account of unexplained cash credits u/s. 68 of the Act.*
2. *Ld. CIT(A) erred in law and on facts of the case in stating that the Assessing Office did not make enquiries to discredit the claim of the assessee whereas he was under obligation to return a clear finding of the fact that these loans are properly explained.*
3. When the matter was called for hearing, none appeared on behalf of the assessee. It is seen from the record that several opportunities were given to the assessee to defend its position and to counter to the revenue appeal. In the absence of any compliance of multiple notices issued, we are constraint to proceed *exparte*.
4. The Ld. DR for the revenue relied upon the assessment order and submitted that the CIT(A) has reversed the action of the AO without seeking any remand report and without showing as to how the criteria of creditworthiness of the lenders are fulfilled. It was claimed that the order of the CIT(A) is cryptic on crucial points. The CIT(A) has failed to take note of the fact that the share applicants are entities of very ordinary means and does not have any capacity to the subscribe the shares of the company and such subscription are only accommodation entries given by these paper companies as discussed in Assessment Order. The DR for

the revenue accordingly contended that the action of the AO be restored and the order of the CIT(A) be set aside.

5. We have carefully considered the submissions made on behalf of the revenue, perused the first appellate order and the order of the AO. It is observed that the assessee has shown alarming indifference and has been a gross non compliant before the AO. It was noted by the AO that no explanation has been submitted by the assessee with regard to genuineness of transactions in relation to huge sum of Rs. 1.70 crores claimed to have been received by way of share application money. The AO further observed that the assessee has filed bunch of documents at the fag end of March and, therefore, investigations into the bonafides of the receipts on the counters of section 68 was not possible. The CIT(A) however has unilaterally granted relief and reversed the action of the AO without giving any opportunity to the AO for any enquiry. No remand report was called as claimed on behalf of the revenue. No enquiry appears to have been made by the CIT(A) himself either. The CIT(A) has merely re-appreciated the narrative built on behalf of the assessee and came to an altogether different finding dehors the ground realities. This, in our view, is not a proper exercise of powers vested in the first appellate authority. The AO admittedly has not conducted any relevant enquiry. No enquiry was caused by the CIT(A) himself either. Therefore, in fitness of the things, the unjustified action of the CIT(A) is required to be set aside.

6. The issue agitated on behalf of the revenue is thus set aside and restored to the file of the CIT(A) for fresh adjudication in accordance with law after making requisite enquiry. It shall be open to the CIT(A) to make or cause to make such enquiry as may be deemed necessary while adjudicating the issue involved. Needless to say, proper opportunity shall be given to the assessee in this regard. Accordingly, the order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) in terms of directions noted above.

7. In the result, the appeal of the revenue is allowed for statistical purpose.

Order pronounced in the open court on 20.04.2022.

Sd/-
(C.M. GARG)
JUDICIAL MEMBER

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

NEHA

Date:-20.04.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

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| Date of dictation | 20.04.2022 |
| Date on which the typed draft is placed before the dictating Member | 20.04.2022 |
| Date on which the typed draft is placed before the Other member | 20.04.2022 |
| Date on which the approved draft comes to the Sr.PS/PS | 20.04.2022 |
| Date on which the fair order is placed before the Dictating Member for Pronouncement | 20.04.2022 |
| Date on which the fair order comes back to the Sr. PS/ PS | 09/05/2022 |
| Date on which the final order is uploaded on the website of ITAT | 09/05/2022 |
| Date on which the file goes to the Bench Clerk | 09/05/2022 |
| Date on which file goes to the Head Clerk. | |
| The date on which file goes to the Assistant Registrar for signature on the order | |
| Date of dispatch of the Order | |